IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

WP(C).No. 26482 of 2007(C)

PETITIONER:

M/S.ESSAR TELECOM INFRASTRUCTURE(P)LTD
41/256, C-19, SECOND FLOOR, MATHER SQUARE,
OPP.NORTH RAILWAY STATION, COCHIN-682018.
REPRESENTED BY EXECUTIVE
(SITE ACQUISITIONS & ADMINISTRATION) MR.RAHUL DAS.

BY ADV. SRI.SANTHOSH MATHEW

RESPONDENTS:

---

1. THE SECRETARY, SHORNUR MUNICIPALITY,
SHORNUR.

2. THE CHAIRPERSON, SHORNUR MUNICIPAL
COUNCIL, SHORNUR.

3. THE SUB INSPECTOR OF POLICE, SHORNUR.

4. SRI.K.VIDHYADHARAN,
S/O.LATE KUTTIKRISHNAN NAIR,
KALATHINGAL HOUSE, MUNDAYA,
SHORNUR.

R4 BY ADV. SRI.E.R.VENKATESWARAN
R3 BY SR.GOVT.PLEADER SRI.K.J.MOHAMMED ANZAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

.....

W.P.(C)No.26482 OF 2007

.....

DATED THIS THE 19TH SEPTEMBER, 2007

J U D G M E N T

Impugned in this Writ Petition under Article 226 of the Constitution filed by M/s.Essar Telecom Infracture (P) Ltd. is Ext.P4 order of the 1st respondent-Secretary, Shornur Municipality issued on behalf of the Council of the Municipality, granting stay pending disposal of an appeal (Ext.P3). Ext.P3 appeal is submitted to the Council of the Municipality against Ext.P1 building permit issued by the Secretary.

2. Heard Sri.Santhosh Mathew, counsel for the petitioner and Sri.E.R.Venkiteswaran, counsel for the party-respondent. There is no appearance for the Municipality though served with notice.

3. Mr.Santhosh Mathew points out that Ext.P3 appeal may not be maintainable and the remedy of the party-respondent will be to appeal to the Tribunal for Local Self Government Institutions, having regard to the provisions of the Statute pertaining to appeals. I find merit in the above submission. I quash Ext.P4 and permit the 4th respondent to prefer appeal to the Tribunal for Local Self Government Institutions against Ext.P1. If the 4th respondent files an appeal to the Tribunal for Local Self Government Institutions against Ext.P1 building permit within two weeks of receiving copy of this judgment, the

Tribunal will entertain that appeal as one filed on time. The appeal will be disposed of, after hearing all concerned parties, in accordance with law. The merits of the grounds raised in this Writ Petition and in Ext.P3 appeal are all left open to be decided by the Tribunal. The 1st respondent is directed to return the copy of the order produced along with Ext.P3 appeal to the 4th respondent so as to enable him to prefer appeal immediately.

The Writ Petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

tgl